

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FRAY LYNCH,	:	
	:	
Plaintiff,	:	
	:	C.A. NO. 06-351 JJF
v.	:	
	:	JURY TRIAL DEMANDED
CITY OF WILMINGTON,	:	
	:	
Defendant.	:	

DEFENDANT’S MOTION FOR SUMMARY JUDGMENT

For the reasons stated in the accompanying Opening Brief in Support of Defendant’s Motion for Summary Judgment, and there being no disputed issues of any material facts, Defendant hereby moves this Honorable Court to issue an Order granting summary judgment based on the following grounds:

1. Lynch’s sexual harassment claim must fail as a matter of law because (1) she has not established intentional gender-based discrimination by the City, (2) she has not adduced any evidence that M. Brown’s conduct was severe or pervasive from the objective vantage point of a reasonable employee, and (3) the City is not vicariously liable for M. Brown’s conduct because remedial measures were taken against M. Brown in response to Lynch’s internal complaint.

2. Lynch’s retaliation claim against the City must fail because M. Brown’s conduct toward her at an off-site community meeting held after the City’s normal business hours does not constitute an adverse employment action by the City. Even if M. Brown’s conduct did constitute an adverse employment action, the City is not liable for that conduct because (1) it occurred in M. Brown’s capacity as a private citizen and (2) the non-retaliatory justification for M. Brown’s conduct was his concern about lack of police presence in the area.

WHEREFORE, Defendant respectfully requests that the Court enter an Order granting summary judgment and dismissing the Plaintiff's Complaint.

/s/ Alex J. Mili, Jr.

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Dated: November 14, 2007

**IN THE UNITED STATES DISTRICT COURT
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FRAY LYNCH,

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V.

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JURY TRIAL DEMANDED

ORDER

_____This _____ day of _____, 2007, the Court having considered Defendant's Motion for Summary Judgment, and any opposition thereto,

It is HEREBY ORDERED that Defendant's Motion is hereby GRANTED and Plaintiff's Complaint is hereby dismissed.

J.

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FRAY LYNCH,

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CERTIFICATE OF SERVICE

I, Alex J. Mili, Jr, Esquire, hereby certify that on this 14th day of November, 2007 a copy of Defendant's Motion for Summary Judgment was served with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following and that these documents are available for viewing and downloading from CM/ECF

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